



UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office

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09/772 628

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/772,628	01/30/01	IINO	5004-4198

MM92/1018

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EXAMINER

BUDD.M

ART UNIT	PAPER NUMBER
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2834

DATE MAILED: 10/18/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

772628

Applicant(s)

Iino et al

Examiner

M. Burd

Group Art Unit

2834

— The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address —

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- ☐ Responsive to communication(s) filed on _____.
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 1 1; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 1-18 is/are pending in the application.
- ☐ Of the above claim(s) _____ is/are withdrawn from consideration.
- ☒ Claim(s) None is/are allowed.
- ☒ Claim(s) 1-11, 13, 14 and 16-18 is/are rejected.
- ☒ Claim(s) 12 and 15 is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement

Application Papers

- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d).
- ☐ All ☐ Some* ☐ None of the:
 - ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a))

*Certified copies not received: _____

Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- ☐ Interview Summary, PTO-413
- ☐ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other _____

Office Action Summary

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The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims 1, 3/1, 5, 6/1, 11/1 & 18 rejected under 35 U.S.C. 102(a) as being clearly anticipated by Okazaki, Takagi or Zumeris.

Note that "characterized to cause--- having a node---" is merely a statement of desired function. Since no actual structure or means is recited that would produce such a standing wave/node result the recitation does not structurally distinguish from the prior art.

Claims 2, 3/2, 4, 6/2, 9, 10, 11/1, 13, 16 and 18 rejected under 35 U.S.C. 102(a) as being clearly anticipated by Okazaki, Takagi or zumeris.

As noted above, the "characterized" clause cannot structurally distinguish. However, these references show the claimed device regardless of whether or not structure were added to limit the claims to having a node across the center of the vibrator.

Claims 17 and 18 rejected under 35 U.S.C. 102(a) as being clearly anticipated by Kataoka (fig. 2A) or Shirasaki (fig. 4B).

Claims 17 and 18 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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The claim is vague and indefinite. Line 4 (to between) does not read properly. It is not clear what "characterized in that --- becomes a guide for rotator means or defines. What structure is this meant to define?

Claims 1-11, 13, 14 and 16-18 rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential structural cooperative relationships of elements, such omission amounting to a gap between the necessary structural connections. See MPEP § 2172.01. The omitted structural cooperative relationships are: the structural means to provide the diagonal and mid element nodes when activated.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 3/1, 5, 6/1 & 18 rejected under 35 U.S.C. 103(a) as being unpatentable over Japan (382) in view of Okazaki, Takagi or Zumeris.

Assuming the "characterized phrase was given the benefit of defining structure, Japan (382) teaches (fig 4) a piezo motor with nodes along diagonal lines but does not explicitly show the moving body and an output projection at a non-nodal portion. However, each of Zazaki, Takagi and Zumeris teach providing a moveable output member and that motion should be extracted at a non-nodal location. This is because there is no useable motion at a nodal area.

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Thus, it would have been obvious to one of ordinary skill in the art to provide a non-nodal output protrusion and moveable member to figure 4 of Japan (382).

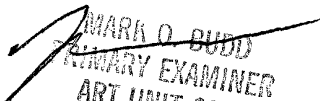
Claims 7 and 8 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Claims 12 and 15 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Further cited of interest are Japan (359), Miyazawa, Tomikawa (article) and Japan (585).

Budd/nt

10/16/01


MARK O. BUDD
PRIMARY EXAMINER
ART UNIT 212